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U.S. Department of Transportation  
Room Plaza 401  
400 Seventh Street, SW  
Washington, DC 20590-0001

**Docket No. FAA-1998-4521-2055**

American Eurocopter LLC, a subsidiary of EADS North America, welcomes the opportunity to comment in response to the Federal Aviation Administration's proposed rules for commercial air tours, Docket No. FAA-1998-4521, published in the Federal Register on October 22, 2003, (68 Fed. Reg. 60571-60591). As a major supplier of helicopters for the air tour industry and the leading seller of turbine-powered civil helicopters in the United States, American Eurocopter has a vested interest in the impact, implications and the derivative negative effect of this proposed rule.

Our concerns and objections regarding these proposed rule changes fall into four general categories:

- 1. The proposed rules are costly, and will likely drive a number of rotary and fixed-wing operators out of the tour business.**

By the FAA's own estimates, full implementation of these rules will:

- Facilitate the closure of approximately 700 air tour operators from the industry
- Reduce the availability of air tours available to the public by approximately 46,000 fewer hours

From our perspective as a supplier, these estimates are far too low, and the economic costs of these rules would likely be much higher. The impact would not only be felt by the tour operators, but by companies that benefit both directly and indirectly from the air tour industry including local tourism industries, as well as the associated manufacturing and maintenance industries.

Further, we believe the FAA assertion that all of the costs incurred as a result of the adoption of this rule will be absorbed by small business without harm is not based on sound analysis. The FAA inference is that because these are small businesses that operate in a niche segment of the aviation industry, they have an improved ability and agility to modify their operations and business models to mitigate adverse regulatory changes that eliminate their core business. This inference cannot be sustained by empirical evidence.

For tour operators, the primary alternate source of revenue would be flight training. Flight training, by its nature and character is a relatively mature industry segment with substantial competitive pressures and a history of economic cyclicity. This is particularly true in recent years post-9/11. If these proposed rules are allowed to go into effect, a large portion of the air tour industry will cease to exist.

**2. The rules adopt a one-size-fits-all approach, essentially extending nationwide rules that were designed for tour operators in Hawaii.**

The proposed rules are modeled after existing rules developed in 1994 for the air tour industry in Hawaii. The operating environment in Hawaii poses special challenges for air tour operators, including dramatic changes in elevation, treacherous terrain and unpredictable weather. Such difficult conditions do not exist in many other areas of the country to which the same rules would now be applied.

Hawaii is a unique situation, as the 1994 rule indicates, and there is no basis for applying the rules for Hawaii to other, less treacherous, locations, particularly where defined tour route structures are currently in place, such as New York City, the Grand Canyon, and Alaska. The potential negative impact for Alaska based tour operators is especially onerous given the unique meteorological conditions that exist in Alaska. The increased minimum altitudes required by the proposed rule for Alaska would likely eliminate most of these operators due to nominal cloud decks that exist in many of the Alaskan tour markets.

**3. The proposal assumes facts in question as to the relationship between the improved safety performance in Hawaii before and after the 1994 rule change.**

The FAA provides as a rationale for its proposed rules the improved safety record in Hawaii since the new rules were implemented in 1994. As an aircraft supplier, we aggressively challenge this hypothesis and suggest such a conclusion fails to recognize, among other things, the direct safety enhancements achieved through more advanced technologies integrated into aircraft design and manufacturing, such as:

- Improved engine technology, including engine control technologies;
- Improved avionics and cockpit/pilot interfaces that increase pilot safety and efficiency; and
- Improved materials and manufacturing technologies that enhance aircraft performance, safety and reliability.

Any claim by the FAA that the Hawaii rule is directly responsible for improved safety performance for tour operators since the rule's adoption fails to take into account all of the facts.

Based on our knowledge of the tour industry and the advantages and improvements of current aircraft technologies, we believe:

- The FAA should not implement a nationwide application of the Hawaii rule as drafted; and
  - The FAA should revoke the 1994 rule change imposed on the Hawaiian market tour operators.
4. **The proposed rules go beyond the initial recommendations made by the National Transportation Safety Board, and specific rules intended to mitigate current hazards may have the unintended effect of creating new hazards.**

Many groups serving the air tour industry agree that the minimum altitude restrictions contained in the proposed rules, designed to prevent crash landings after engine failures, may have the unintended consequence of increasing the risk of mid-air collisions. The National Transportation Safety Board has in the past raised the concern that minimum altitude restrictions may lead to a compression of air traffic at certain levels and cause degradation in safety. Minimum altitude restrictions were not among the six recommendations presented to the FAA by the NTSB.

In the event that the proposed rules are adopted, there is little question that it will be more difficult to de-conflict rotary and fixed-wing air traffic. This compression of air traffic – primarily operating under Visual Flight Rules – will exacerbate the challenge to de-conflict aircraft operating in different capacities with relatively significant airspeed deltas. It is hard to believe that the risks associated with condensing fixed-wing and rotor-wing air traffic into the same altitude is less than the risks posed by the current altitude ranges for each type of aircraft.

In closing, American Eurocopter is fundamentally opposed to the proposed rule and respectfully requests that the FAA reconsider its recommendation and evaluate other, more reasonable, options for improving air safety based on current best practices and technology.

Sincerely,

AMERICAN EUROCOPTER LLC

A handwritten signature in black ink, appearing to read 'M. Paganini', with a stylized flourish underneath.

By:  
Marc Paganini  
President & CEO